

REMARKS**Claims**

Claims 1 through 22 are pending in this Application. Claims 1 through 17 have been allowed. Claims 18 and 21 have been amended to overcome the Examiner's Rejections.

Allowed Claims

Applicant acknowledges and appreciates the Examiner allowing Claims 1 through 17.

Drawings

Applicant acknowledges and appreciates the Examiner approving the drawing changes.

**Rejection of Claims 18 through 22 Under
35 USC 112, Second Paragraph**

The Examiner rejected Claim 18 as indefinite because it incorrectly states that the article is "positioned on and protruding outwardly from the exterior surface of said outer member."

Applicant has amended Claim 18 at line 29 (reference being made to the amended Claim) to insert after the word "article" the phrase --wherein said at least one outer pocket is-- such that the reference now reads "to receive an article wherein said

at least one outer pocket is positioned on and protrudes outwardly from the exterior surface of said outer member".

With the above amendment, the Claim is now definite and recites that it is the "said at least one outer pocket" which is positioned on and protrudes outwardly from the exterior surface of the outer member.

With the above amendment the rejection of Claim 18 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been overcome.

The Examiner rejected Claims 19 and 20 under 35 U.S.C. 112, second paragraph as being indefinite for the same reason as Claim 18 because they include all of its limitations.

Since Claim 18 has now been made definite for the reasons discussed above, for the same reasons Claim 19 and 20 are now definite.

With the amendment to Claim 18, the rejection of Claims 19 and 20 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been

overcome.

The Examiner rejected Claim 21 under 35 U.S.C. 112, second paragraph, as being indefinite because some limitations appear to have been recited more than once. In making this rejection, the Examiner stated as follows:

This Claim is indefinite because some limitations appear to have been recited more than once. Thus, it is not clear whether those limitations are intended to require the same structure or to require different structure. Note, for example, the limitation, "operatively connected in a predetermined position to said outer member at a location other than the opening," which is recited in lines 9 and 10 and again in lines 11 and 12.

Applicant agrees with the Examiner's comments and has proceeded as follows. At lines 9 and 10 of Claim 21, the phrase "operatively connected in a predetermined position to said outer member at a location other than the opening" is correct,

accurate and defines the structural limitations with respect to the carrying handle. However at lines 11 and 12, the phrase "operatively connected in a predetermined position to said outer member at a location other than the opening," has been deleted and replaced with the word --positioned-- such that the Claim now reads "said carrying handle being positioned at a location other than the opening,".

With the amendment to Claim 21, the rejection of Claim 21 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been overcome.

The Examiner rejected Claim 22 under 35 U.S.C. 112, second paragraph, as being indefinite because this Claim 22 is indefinite as Claim 21 because it includes all of its limitations.

Since Claim 21 has now been made definite for the reasons discussed above, for the same reasons Claim 22 is now definite.

With the amendment to Claim 21, the rejection of Claim 22 under 35 U.S.C. 112, second paragraph as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been overcome.

For all of the above reasons, the Examiner's rejection of Claims 18 through 22 under 35 USC 112, second paragraph, has been overcome in that the Claims are now definite and particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Rejection of Claim 18-20 Under 35 USC 102(b)
Or In The Alternative Under 35 USC 103(a)**

The Examiner rejected Claims 18-20 under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Eaton et al (Eaton).

In making this rejection, the Examiner stated as follows:

It is submitted that Eaton's pocket inherently "protrudes outwardly" because it is on the exterior of the bag. Furthermore, the pocket will "protrude outwardly" when an item is contained therein. In addition, the pocket is "configured to be expanded to receive an article" because it will expand outwardly when a three dimensional article, such as a wallet or a set of keys, is inserted into it. Alternatively, it would have been obvious to modify Eaton's pocket

to protrude outwardly because it would be easier to open for the insertion of an article.

In addition, the Examiner made the following definitive statement at paragraph 12 of the Office Action dated January 25, 2002 with respect to the Applicant's arguments set forth in the Amendment filed January 10, 2002, to wit:

Applicant's arguments filed with the RCE have been fully considered but they are not persuasive. The arguments regarding the invention disclosed by Eaton et al. are not persuasive because the drawings clearly disclose a pocket. That the text of the patent does not refer to the pocket by name does not mean that it is not a pocket. It is very clearly a pocket. In addition, the layer of material necessary to form the pocket is on the outer surface of the bag and, thus, protrudes. Furthermore, whether it is a card pocket (as applicant alleges) or a pocket for holding personal articles while the owner is playing basketball (or other sport), when an item is inserted into it, it will protrude even further. It is noted that the only alleged difference between the bag recited in claim 18 and the Eaton bag is that the pocket protrudes. This is not a patentable difference, if it is a difference at all, and this claim will not be allowed for that reason.

Applicant respectfully traverses this rejection of claims 18-20 under 35 USC 102(b) or, in the alternative, under 35 USC

103(a) for several important reasons.

Applicant fully understands that it is the Examiner's position that if the pocket protrudes, as claimed in Claim 18 through 20, and this is a difference over Eaton, that the Examiner has essentially determined that this difference, in and of itself, is not a patentable difference and, that the Claims 18 through 20 will not be allowed for that reason.

In order to overcome the rejection of Claims 18 through 20, Applicant has further amended Claim 18. Claim 18 has been amended at line 10 to further define structure of the carrying handle using essentially the language of allowed Claim 1 as a means for clearly distinguishing the subject matters of Claims 18 through 20 over Eaton.

Clearly, Eaton, et al, does not anticipate, disclose, suggest or teach:

a carrying handle having a first end and a second end operatively connected in a predetermined position to said outer member at a location other than the opening, said carrying handle having an elongated strap

having a first end and a second end, said first end being operatively connected to said outer member, said second end terminating in a connecting member, and a strap member having a mounting end and cooperating connecting member, said mounting end being operatively mounted on the outer member and said cooperating connecting member interacting with said connecting member forming a carrying handle wherein said connecting member and said cooperating connecting member are moveable relative to each other.

Since amended Claim 18 and defendant Claims 19 and 20 define a carrying handle which distinguishes the present invention over Eaton, Claim 18 and defendant Claims 19 and 20 define patentable subject matter.

In this matter, Claim 18 not only includes the structural limitation of the carrying handle but also retains the following element:

at least one outer pocket configured to be expanded to receive an article wherein said at least one pocket is positioned on and protrudes outwardly from the exterior surface of said outer member at a location other than the opening and having an entryway enabling the insertion and removal of an article from said one outer pocket.

Thus, Claim 18 includes at least one pocket which protrudes outwardly from the outer member together with the structural limitation of the carrying handle which, in combination, clearly define patentable subject matter over Eaton.

In addition, since Claim 18 now contains the structural limitations with respect to the carrying handle using substantially the same claim language as allowed Claim 1, Claim 18 and dependant Claims 19 and 20 define patentable subject matter over Eaton for the same reasons that Claims 1 through 17 define patentable subject matter.

For all of the above reasons, the Examiner's rejection of Claims 18-20 under 35 USC 102(b) as anticipated by or, in the

alternative, under 35 USC 103 (a) as obvious over Eaton et al (Eaton) has been overcome.

Claims 21 and 22 are Allowable

It is respectfully noted in Claims 21 and 22 were rejected only under 35 U.S.C. 112, second paragraph, as set forth above. Claim 21 was amended as set forth above to overcome the rejection under 35 U.S.C. 112, second paragraph. With the amendment to Claim 21 to overcome the rejection under 35 U.S.C. 112, second paragraph, Claim 22 likewise overcomes the same rejection.

The Examiner has not rejected Claims 21 and 22 under any prior art. Claim 21 contains structural limitations defining the carrying handle using essentially the claim language of allowed Claim 1. For this reason, Claim 21 and dependent Claim 22 are both deemed to now be allowable for the same reasons as Claims 1 through 17 are allowable.

It is respectfully noted that Claim 21 claims "at least one outer pocket positioned on and protruding outwardly from the exterior surface of said outer member" and that Claim 22 claims "at least two outer pockets positioned on said exterior surface

of the outer member and protruding outwardly".

For the above reasons, Claims 21 and 22 are now verily believed to define patentable subject matter.

Summary

Claims 1 through 17 are allowable. Claims 18 through 22 have been amended to overcome the rejections by the Examiner and are now verily believed to be allowable.

The Examiner is respectfully requested to determine that Claims 18 through 22 are allowable.

The Examiner is respectfully requested to issue a Notice of Allowability based on Claims 1 through 22 being allowed and to issue a formal Notice of Allowance.

If the Examiner determines that allowable subject matter is present in Claims 18 through 22, but has further objections to the claim language such that further modification to the claim

language would overcome such objections of the Examiner, the Examiner is respectfully requested to call the undersigned for the purposes of conducting a phone interview so that agreement may be reached on wording acceptable to the Examiner.

Respectfully submitted,



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APPLICANT: DOUGLAS RUGG)
 SERIAL NO: 09/527,066) GROUP ART UNIT
 FILED: March 17, 2000) 3727
 FOR: BAG FOR CARRYING A BALL) EXAMINER
) STEPHEN P. GARBE
)
)

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Claims 1 through 17 have been allowed as set forth below:

1. A bag for carrying a ball wherein said bag includes a an outer member defining an interior and an exterior surface configured in the shape of a ball and having an opening positioned therein for inserting and removing a ball from the outer member, said bag comprising
 a carrying handle operatively connected in a predetermined position to said outer member at a location other than the opening, said carrying handle having an elongated strap having a first ⁷¹ end and a second ⁷² end, said first ⁷¹ end being operatively connected to said exterior surface of said outer member, ⁴⁷⁴ said second ⁷² end terminating in a connecting member, and a strap member having ⁴⁷⁴ a mounting ⁴⁷⁴ end and cooperating connecting member, said mounting end being ⁴⁷⁴ operatively mounted on the exterior surface and said cooperating connecting member interacting with said connecting member forming a carrying handle wherein said connecting member and said cooperating connecting member are moveable relative to each other; and

a fastening member located within said opening and extending in a selected direction on said outer member wherein at least a portion thereof

extends in a direction substantially perpendicular to said carrying handle, said carrying handle being positioned to refrain from interfering with the inserting and removing of a ball from said outer member defining the bag.

2. The bag of claim 1 wherein the configured shape of a ball is in the shape of a round ball.

3. The bag of claim 1 wherein the configured shape of a ball is in the shape of a basketball.

4. The bag of claim 1 wherein the configured shape of a ball is in the shape of a baseball.

5. The bag of claim 1 wherein the configured shape of a ball is in the shape of a soccer ball.

6. The bag of claim 1 wherein the configured shape of a ball is in the shape of a football.

7. The bag of claim 7 further comprising at least one outer pocket positioned on the exterior surface of said outer member at a location other than the opening and having an entryway enabling the insertion and removal of an article from said one outer pocket.

8. The bag of claim 1 wherein said one outer pocket is formed of a solid fabric.

9. The bag of claim 7 wherein said one outer pocket is formed of a mesh fabric.

10. The bag of claim 7 wherein said one outer pocket includes an interior cavity and said entryway communicates with and provides access to said interior cavity.

11. The bag of claim 7 wherein said entryway includes a zipper which has an open position and a closed position, said zipper when in an open position affording access to the interior cavity of said one outer pocket.

12. The bag of claim 7 further comprising a flap operatively connected to at least one of said entryway and said exterior surface of the outer member, said flap having an open position and a closed position, said flap when in an open position affording access through said entryway to the interior cavity of said one outer pocket.

13. The bag of claim 7 wherein said outer pocket includes a second fastening member which cooperates with a mating member located on at least one of a flap and exterior surface of the outer member.

14. The bag of claim 7 wherein said second fastening member and said mating member are mating elements defining a hook and loop fastener.

15. The bag of claim 7 wherein said second fastening member is at least one of a button and a button hole and said mating member is the other of said at least one of a button and a button hole.

16. The bag of claim 7 wherein said second fastening member is at least one of a rotatable fastener and an aperture for receiving a rotatable fastener and said mating member is the other of said at least one of a rotatable fastener and an aperture for receiving a rotatable fastener.

17. The bag of claim 9 wherein said mesh fabric is formed of an elastic material.

Claims 18 and 21 have been amended as follows:

18. (Thrice Amended) A bag for holding a ball comprising

an outer member having an interior and an exterior surface configured in the shape of a ball and defining an inner enclosed space, said exterior surface including an opening formed therein in a selected direction and in communication with said inner enclosed space for affording the insertion and removal of ball therefrom;

a carrying handle having a first end and a second end operatively connected in a predetermined position to said outer member at a location other than the opening, said carrying handle having an elongated strap having a first end and a second end, said first end being operatively connected to said outer member, said second end terminating in a connecting member, and a strap member having a mounting end and cooperating connecting member, said mounting end being operatively mounted on the outer member and said cooperating connecting member interacting with said connecting member forming a carrying handle wherein said connecting member and said cooperating connecting member are moveable relative to each other;

a fastening member having an open and a closed position, said fastening member being operatively connected to said

opening wherein at least a portion thereof extends in a direction substantially perpendicular to said first end and said second end of the carrying handle and being adapted to make said opening an unsecured opening when said fastening member is in the open position and adapted to make said opening a secured opening when said fastening member is in a closed position; and at least one outer pocket configured to be expanded to receive an article wherein said at least one outer pocket is positioned on and [protruding] protrudes outwardly from the exterior surface of said outer member at a location other than the opening and having an entryway enabling the insertion and removal of an article from said one outer pocket.

19. The bag of claim 18 having at least two outer pockets positioned on said exterior surface of the outer member and protruding outwardly at a location other than said opening and spaced from said carrying handle, said at least one outer pocket having an entryway enabling the insertion and removal of an article from said at least one outer pocket independent of a ball being located in said inner enclosed space.

20. The bag of claim 18 wherein said carrying handle is positioned at least substantially perpendicular to at least a portion of said opening.

21. (Twice Amended) A bag for holding a ball comprising a outer member having an interior and an exterior surface

configured in the shape of a ball and defining an inner enclosed space, said exterior surface including an opening formed therein in a selected direction and in communication with said inner enclosed space for affording the insertion and removal of ball from said outer member;

a carrying handle having a first end and a second end operatively connected in a predetermined position to said outer member at a location other than the opening, [said carrying handle being [operatively connected in a predetermined position to said outer member] positioned at a location other than the opening], said carrying handle having an elongated strap having a first end and a second end, said first end being operatively connected to said exterior surface of said outer member, said second end terminating in a connecting member, and a loop member having a mounting end and cooperating connecting member, said mounting end being operatively mounted on the exterior surface and said cooperating connecting member interacting with said connecting member forming a carrying handle wherein said connecting member and said cooperating connecting member are moveable relative to each other;

a fastening member having an open and a closed position, said fastening member being operatively connected to said opening wherein at least a portion thereof extends in a direction substantially perpendicular to said first end and said second end of the carrying handle and being adapted to make said opening an unsecured opening when said fastening member is in the open position and adapted to make said opening a secured opening when said fastening member is in a closed position and at least one outer pocket positioned on and protruding outwardly from the exterior surface of said outer member at a location other than the opening and having an entryway enabling the insertion and removal of an article from said one outer pocket.

22. The bag of claim 21 having at least two outer pockets positioned on said exterior surface of the outer member and protruding outwardly at a location other than said opening and spaced from said carrying handle, said at least one outer pocket having an entryway enabling the insertion and removal of an article from said at least one outer pocket independent of a ball being located in said inner enclosed space.